

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Mar 23, 2022**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DEV BHUMI COLD CHAIN PVT  
LTD, an Indian Company,

Plaintiff,

v.

YAKIMA FRESH LLC, a Washington  
Limited Liability Company,

Defendant.

No. 1:20-cv-03106-SMJ

**ORDER GRANTING IN PART  
AND DENYING IN PART  
PLAINTIFF'S MOTION FOR  
PARTIAL SUMMARY  
JUDGMENT**

Before the Court is Plaintiff's Motion for Partial Summary Judgment, ECF No. 30. Plaintiff seeks partial summary judgment on several issues related to its claims for breach of contract and unjust enrichment arising out of the parties' 2018 quality claims settlement agreement. By separate Order, the Court granted Defendant partial summary judgment and dismissed these claims with prejudice. Accordingly, the Court denies as moot Plaintiff's motion as it relates to the first five issues asserted in the motion. *See* ECF No. 30 at 2.

However, Plaintiff also seeks summary judgment that Defendant has expressly waived its affirmative defenses. ECF No. 30 at 21. In its Notice of Affirmative Defenses, Defendant represented it "will not be presenting affirmative

1 defenses at trial.” ECF No. 29 at 1. At the pretrial conference on March 22, 2022,  
2 Defendant conceded that it has indeed waived any affirmative defenses in this  
3 matter. As Plaintiff still has remaining claims, the Court grants Plaintiff summary  
4 judgment on this issue only.

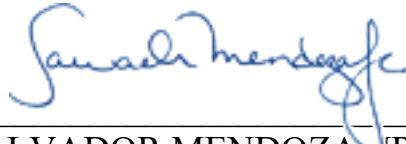
5 Accordingly, **IT IS HEREBY ORDERED:**

6 **1. Plaintiff’s Motion for Partial Summary Judgment, ECF No. 30, is**  
7 **GRANTED IN PART AND DENIED IN PART.**

8 **A.** The Court grants Plaintiff’s motion on the issue of Defendant’s  
9 waiver of any affirmative defenses only; the motion is otherwise  
10 denied as moot.

11 **IT IS SO ORDERED.** The Clerk’s Office is directed to enter this Order and  
12 provide copies to all counsel.

13 **DATED** this 23<sup>rd</sup> day of March 2022.

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15 SALVADOR MENDOZA, JR.  
16 United States District Judge  
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